

1 Q And with respect to the living arrangements of
2 Mr. Rivera, are you aware as to whether or not Mr. Rivera
3 resides at his home with anyone?

4 A Throughout the course of our investigation we never had
5 any indications that anyone resides in the home with Mr. Rivera
6 besides himself.

7 Q And where would that be?

8 A At 508 Brock Avenue.

9 Q And what floor does he live on?

10 A The first floor.

11 Q Now did you also take out a search warrant application
12 with respect to that location?

13 A Yes, I did.

14 Q And do you recall what date that was?

15 A I believe that was June 22nd as well.

16 Q And since June 22nd, was that search warrant executed?

17 A Yes, it was.

18 Q And were you part of the team that executed the search
19 warrant?

20 A No.

21 Q Do you have any information with respect to that execution
22 vis-à-vis, whether or not any contraband had been found in that
23 location?

24 A I still haven't familiarized myself due to the grand
25 nature of the investigation and all the search warrants that we

1 took down, what the total intake was in the house.

2 Q And have you had an opportunity to review Mr. Rivera's
3 criminal history record?

4 A Yes, I have.

5 Q And with respect to Mr. Rivera's criminal history, are you
6 aware of any felony convictions?

7 A Yes, I am.

8 Q And what would that be?

9 A I don't--

10 THE COURT: Hang on one second? Ms. Brown, do you
11 have it?

12 MS. BROWN: The criminal record?

13 THE COURT: Yeah. Can I see it? Thank you. Go
14 ahead.

15 BY MS. LEONEY:

16 Q What would that be?

17 A He has a, I believe it's a Class B drug conviction. I was
18 able to get a hold of a certified copy.

19 Q And do you recall what year that was?

20 A Maybe not.

21 MS. LEONEY: May I approach the witness, your Honor?

22 THE COURT: Yeah, sure.

23 BY MS. LEONEY:

24 Q I'm handing you a document, and I'd ask you to take a look
25 at that please.

1 (Pause)

2 BY MS. LEONEY:

3 Q Do you recognize that document?

4 A I do.

5 Q And what is that, please?

6 A This is the certified copy of conviction. It's in Bristol
7 Superior Court for 1990 conviction of a trafficking a
8 controlled substance, Class B, cocaine.

9 Q I'm sorry, was the conviction 1990 or was that the date
10 that the--

11 A The conviction was--

12 MR. WATKINS: I'll stipulate that the conviction was
13 September 7th of 1995.

14 THE COURT: As I'm looking at it right here.

15 MS. LEONEY: Thank you.

16 Your Honor, at this time the government would offer
17 as Government's Exhibit--

18 THE COURT: Do you have a copy?

19 MR. WATKINS: I do, your Honor.

20 THE COURT: All right, any objection?

21 MR. WATKINS: Not for purposes of this hearing.

22 THE COURT: All right. Government Exhibit No. 2.

23 (Government Exhibit No. 2, admitted)

24 BY MS. LEONEY:

25 Q Now, Agent Hickey, during the course of your investigation

1 and review of Mr. Rivera's criminal history record, did you
2 also observe any restraining orders with respect to that
3 criminal history record taken out against Mr. Rivera?

4 A Yes, I do.

5 Q And what do you recall about that?

6 A I don't recall much to be honest with you other than there
7 was at least one restraining order on his criminal record when
8 we pulled it up.

9 Q And during the time of the undercover purchases, do you
10 recall whether or not any of those restraining orders or the
11 one that you recall was an open restraining order?

12 A I believe one was.

13 MS. LEONEY: Your Honor, at this time the government
14 would rest.

15 THE WITNESS: Can I just clarify. I'm not sure on
16 the specific dates of those, but to the best of my
17 recollection, at the time that I pulled it up I believe one.

18 MS. LEONEY: Thank you.

19 THE COURT: Well, all right. Now, I understand
20 you're resting. I have the record on the restraining orders.
21 There appears to be four of them. During the course of your
22 investigation, by use of a confidential informant various
23 purchases were made; is that correct?

24 THE WITNESS: Yes, your Honor.

25 THE COURT: All right, and those purchases were of

1 what?

2 THE WITNESS: Heroin.

3 THE COURT: On one occasion?

4 THE WITNESS: Yes, your Honor.

5 THE COURT: And how much heroin for how much money?

6 THE WITNESS: 10 grams of heroin I believe was
7 \$1,000, your Honor.

8 THE COURT: And what else?

9 THE WITNESS: The next purchase after that was for
10 ammunition a 38 caliber pistol, and I believe that was
11 purchased for \$400.

12 THE COURT: All right. And the ammunition was in
13 interstate commerce, but they're not sure about the gun, right?

14 THE WITNESS: That's correct, your Honor.

15 THE COURT: And then what else was purchased?

16 THE WITNESS: The third purchase for approximately
17 29 grams of cocaine and the purchase price was \$1,100.

18 THE COURT: All right. Go ahead, Mr. Watkins.

19 MR. WATKINS: Thank you, your Honor.

20 CROSS EXAMINATION

21 BY MR. WATKINS:

22 Q Good morning, Mr. Hickey.

23 A Good morning.

24 Q You were handling this particular confidential informant?

25 A I was.

1 Q It's safe to say you were working with him long before
2 March and April of 2004?

3 A No, I was not.

4 Q Was that the first time you began working with him was on
5 this case?

6 A That's correct.

7 Q And when exactly did you first speak with this
8 confidential informant?

9 A I would say some time in March.

10 Q You talked about the investigation beginning in late March
11 or early April. You talked to the confidential informant some
12 time before this investigation began?

13 A I believe it was some time in March.

14 Q And did you make some kind of record of your meeting with
15 this confidential informant?

16 A A written record?

17 Q Yes.

18 A At some point we documented him as a confidential
19 informant.

20 Q And this would be something you did as his handler; is
21 that correct?

22 A That's correct.

23 Q And was he a registered confidential informant? Does the
24 AFT register confidential informants?

25 A Yes, they do.

1 Q Is he a registered confidential informant with the ATF?

2 A Yes, he is.

3 Q And when did he become a registered confidential
4 informant?

5 A I don't recall the date.

6 Q Is it some time in 2004?

7 A Yes, it is.

8 Q And perhaps around March of 2004?

9 A Yes.

10 Q Would it have been any earlier than March of 2004?

11 A Is it possible it was in late February, yes, but I believe
12 it was March.

13 Q Now, when the investigation began, that began using tape
14 recordings of monitored telephone calls? Yes?

15 A Yes.

16 Q Did it also involve face-to-face meetings with recorded
17 conversations?

18 A I'm sorry, did we record conversations between the--

19 Q The confidential informant and Mr. Rivera?

20 A Yes, we did.

21 Q When was the first of the recorded conversations done?

22 A April 1st.

23 Q So there were no recorded conversations before April 1st?

24 A That's correct.

25 Q Were you aware of conversations between a confidential

1 informant and Mr. Rivera that weren't recorded?

2 A Yes, I was.

3 Q And how many of those were there?

4 A Several.

5 Q When you say several, five, six.

6 A I would say between five and 10.

7 Q And these are conversations that weren't recorded that
8 were part of the investigation?

9 A That's correct.

10 Q And all happened before April 1st?

11 A There were conversations that happened prior to April 1st,
12 on April 1st and after April 1st that were of that nature.

13 Q So all through the course of this investigation, there
14 would be some conversations that were recorded and then some
15 that weren't?

16 A That's correct.

17 Q April 1st was the first recorded conversation?

18 A Yes, it was.

19 Q And was that a telephone call or a face-to-face meeting?

20 A Face-to-face meeting.

21 Q And how many times were conversations actually recorded
22 either by telephone or face-to-face?

23 A I believe three.

24 Q There are indications that there were, no indications,
25 your affidavit says there were three actual purchase; is that

1 correct?

2 A That's correct.

3 Q Those were all recorded; is that correct?

4 A Yes, they were.

5 Q Beyond those three actual purchases of items, were there
6 any other recordings made?

7 A Not to my knowledge. I believe there were three. There
8 may have been, what happens is if we attempt an undercover
9 purchase that doesn't necessarily pan out and a recording be
10 made, to the best of my knowledge those are the only three
11 incidents that we had and those are the three recordings.

12 Q Were there attempts to make purchases that were
13 unsuccessful during this investigation?

14 A I don't believe so.

15 Q Were there telephone calls to set up, in the affidavit you
16 talk about telephone calls to set up these meetings; is that
17 correct?

18 A That's correct.

19 Q Were those also recorded?

20 A No.

21 Q So it was just the face-to-face meetings. Those were the
22 only things that were recorded; is that correct?

23 A That's correct.

24 THE COURT: How about the telephone calls, were they
25 monitored?

1 THE WITNESS: Yes, they were, your Honor.

2 THE COURT: In other words, someone was there when
3 the telephone call was made and at least hearing one side of it
4 if not the other?

5 THE WITNESS: Exactly.

6 BY MR. WATKINS:

7 Q And who was doing that?

8 A Either myself or Detective Paul Olivera.

9 Q During the course of those conversations, were you taking
10 notes or do you know whether Sergeant, is it Sergeant Paul, did
11 you say?

12 A Sergeant Olivera, yes.

13 Q Sergeant Olivera. Were either of you taking notes during
14 these calls?

15 A I don't normally take notes on a phone call that I monitor
16 like that unless it's something significant.

17 Q Was there any kind of memorialization of these telephone
18 calls that were not recorded?

19 A What you have in your records is all we memorialized.

20 Q And are you aware of whether Sergeant Olivera takes any
21 kind of notes?

22 A Not that I'm aware of.

23 Q So as I understand you, for all of these conversations
24 that were not recorded, there's no notes and there are no
25 contemporaneous reports?